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Section 199 embodies substantially the substance of old section 198.

Section 274a is another new section relating to special tenures and incomplete estates in letters patent, particularly relating to assignments.

Section 276 is amplified and considers the question of failure of consideration for an assignment and the question of restoring the title to the assignor by destruction of the assignment.

Section 288a is new and refers to mortgages of patents.

Sections 302a, 307a and 313a are new sections under "Licenses."

New sections 346a and 370a consider infringements, equivalents, &c.

New section 571a refers to damages in design cases.

Three new sections under "Actions in equity" (585a, 644a and 657a), and two under "Profits" (723a and 734a) complete the list of the most important changes.

On the whole this brings the law and practice down, substantially, to the present day by the addition of new editions and citations, which are merely supplementary to the old and familiar treatment of the earlier editions. It is probably the latest, and therefore in connection with its other advantages, a most desirable work on the subject.

THE POLICE POWER, PUBLIC POLICY AND CONSTITUTIONAL RIGHTS.  
By Ernst Freund, Professor of Jurisprudence and Public Law in the University of Chicago. Chicago: Callaghan & Co. 1904. pp. xcii, 581.

The law of the police power, as the author says, is the "growth of the last thirty or forty years and much of it remains unsettled." There are few subject matters and few terms in the law, the exact meaning and content of which have been more subject to dispute. This Professor Freund has fully recognized, but none the less he has faced the difficulty and given us certain lines of distinction and principles of elimination which will greatly aid in clearing away the confusion. The recognition of this confusion has been Professor Freund's safeguard, for he has not attempted to pigeon-hole the law. Rather he has given principles of distinction, only two in number, both of them clear and incisive, which, if they prove fully supportable—and that time must demonstrate—will enable us to rescue each bit of legislation from whatever nook into which it has been thrust and determine its place in or out of the law of the police power. For he says, "From the mass of legislation, in which the nature of the power has been discussed, and its application either conceded or denied, it is possible to evolve at least two main attributes or characteristics which differentiate the police power: it aims directly to secure and promote the public welfare, and it does so by compulsion." But it is only by detailed examination of statutes and decisions, and hardly by general observations, he maintains, that the power can be fully understood and defined. And such examination will reveal the police power "not as a fixed quantity, but as the expression of social, economic and political conditions. As long as these conditions vary, the police power must continue to be elastic, i. e. capable of development."

The work is divided into three parts, first the "Nature and Gen-

eral Scope of the Police Power", second "The Public Welfare" and third "Fundamental Rights Under the Police Power." Mere mention of a few of the sub-topics under these heads will emphasize the breadth of interests treated. Under part one, among other things, the police power of the Federal Government is discussed, under part two protection of laborers, combinations of laborers, combinations of capital, business affected with a public interest, etc., under part three, personal and civil liberty, confiscatory legislation, equality, special privileges, etc. We may indicate the contents in still a different way, though nothing short of a long enumeration would give a truly adequate idea. The writer shows that, broadly speaking, there are three spheres of activities, conditions and interests which are to be considered with reference to the police power, "a conceded sphere affecting safety, order and morals, covered by an ever-increasing amount of restrictive legislation, a debatable sphere, that of the proper production and distribution of wealth, in which legislation is still in an experimental stage, and an exempt sphere, that of moral, intellectual and political movements, in which our constitution proclaims the principle of individual liberty." And this threefold division he makes his basis for analysis of legislation.

Mr. Freund makes it known that in a work upon a subject which is still in a formative stage, he must claim considerable independence in the classification of principles. The classification and formulation is in general most enlightening. There is repetition in places, but necessarily so. However it is not likely that the method will escape objection at all points. For example, it is not fully apparent why two such unrelated heads as "Methods of the Police Power" and "the Federal Government and the Police Power" should be closely coordinated in in part one, save, of course, as a matter of convenience. Furthermore the interest constantly developing in administrative law would have led us to hope that the item "Methods of the Police Power" might have been given a more extensive treatment, and perhaps made a major division, of itself. Professor Freund, we take it, is splendidly equipped to give us a discussion of administrative determinations and enforcements in this connection. While of little interest to the student who confines himself to the private law, or to the general practitioner, to the public lawyer a fuller examination of the administrative decisions and actions, with regard to nuisances, and like matters, would have been most interesting. But the form, both in the general outline, and in the detail, is, as a rule, excellent.

The substance of the book presents three merits found all too infrequently in law books, even these which, like this, deal in large part with public law. They are the author's studies in comparative jurisprudence, his historical studies, and his frequent reviews and criticisms of legislation. It is dangerous for an ordinary law writer to indulge in the comparative method or do very much in the way of history. But it was to be expected of Professor Freund's broad attainments that his material would be most skillfully selected, and that perhaps not an illustration that he should offer would fail to vivify his exposition. The expectation is realized. Moreover his review and estimate of legislation is of a very timely and practical, and hence valuable, nature.

The distinction between personal and civil liberty employed by Mr. Freund will hardly be favored by those who have been disposed to identify the two, making personal liberty a sub-head of civil liberty, as it is secured by the Constitution of the United States. In considering state liquor regulation the leading case, *In re Rahrer*, receives but a single reference, and that only in the foot note, and it is not called up again in any other connection. In view of the astounding doctrine enunciated by this case, and what possibly is or may be its very great effect on the state police power, this seems cavalier, not to say inadequate, treatment. Mr. Freund has strong views upon strike and anti-trust legislation. He is of the opinion that "the prohibition of strikes cannot be regarded as exceeding the limits of legislative power, as long as the anti-trust acts are upheld as constitutional." For he says—and his statement here would not be gently handled by those economists who refuse to identify labor and goods—"It is impossible to say that there is such difference between the price of labor and the price of other commodities, that agreements to raise the former are beyond the legislative power of prohibition, while agreements to raise the latter are subject to it." In view of the majority opinion in the Slaughter House Cases, we question the fairness of the statement with which the third part opens, the statement that "the Fourteenth Amendment has given to liberty, property and equality the highest protection of which rights are capable under our system of government, and has thus stamped them as the fundamental rights of the individual." Is it not true that the protection of the Fourteenth Amendment is not so specific and certain, not so thoroughly safe guarded, as that afforded by the first eight amendments, hence is not so "high" a protection, and that the first eight amendments, it extended to cover process of law in the states, would be the "highest protection"?

In many hundred details Professor Freund throws a most welcome light upon points that have long remained in mere obscurity. Witness his discussion of compulsory vaccination, of the police power of the federal government, of the relation of restraint of trade to competition, etc. In view of Justice Holmes' recent pronouncement upon this latter matter, as given in the Northern Securities case, one may well turn to Mr. Freund's pages at this place, and perhaps recover his shaken equilibrium. The debt of obligation for this full, careful, and admirably constructed and printed work is no small one. It fills not one of the minor vexing wants, but a want of great and grave importance.

STREET RAILWAY REPORTS. Vol. I. Frank B. Gilbert. Albany: Matthew Bender & Co. 1904. pp.xvi, 943.

This purports to be the first of a series of volumes collecting all the cases decided in the Federal courts, in the courts of last resort of all the States, and the important cases decided in lower courts of original or appellate jurisdiction from April 1, 1903, relating in any way to the management, operation, or control of street railways, and the rights, duties, and liabilities of street railway companies. The editor has further annotated the more important cases, discussing the principles involved and citing cases.